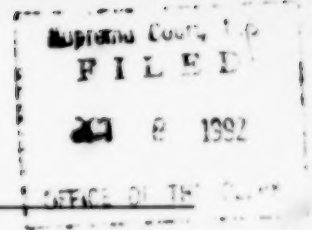


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OCT 8 1992



IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

TERRY LYNN STINSON,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

Reply

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

HERBERT JAY STEVENS, III
Federal Public Defender
Middle District of Florida

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Counsel for Petitioner Stinson

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

No. 91-8685

TERRY LYNN STINSON, Petitioner

v.

UNITED STATES OF AMERICA, Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITIONER'S REPLY TO THE
SUPPLEMENTAL BRIEF FOR THE UNITED STATES

The United States filed a supplemental brief advising the Court of the action of the United States Sentencing Commission, notice of which was published in the Federal Register on September 16, 1992, by which the prior amendment to the commentary to the definition of career offender (which prior amendment stated that the crime of possession of a firearm by a felon was not a "crime of violence") would be made retroactive under Sentencing Guideline § 1B1.10(a).

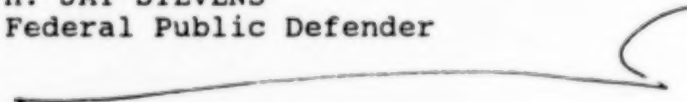
The United States suggests that Petitioner Stinson will now be able to apply to the district court for resentencing based on the amendment, so that his crime of possession of a firearm will no longer be classified as a "crime of violence," and he would not be

resentenced as a career offender. The United States argues that for this reason Stinson's petition for writ of certiorari should be denied.

On the contrary, the amendment making the clarifying definition of "crime of violence" retroactive is a further compelling reason to grant the petition. Under the law of the Eleventh Circuit in Stinson's case, the Eleventh Circuit refuses to apply the Sentencing Commission's interpretation of the definition of "crime of violence." The Eleventh Circuit's refusal was not based on any claimed lack of retroactivity. Hence, the latest amendment to § 1B1.10 will not alter the holding in Stinson's case. Were Stinson (or any other defendant sentenced as a career offender in the Eleventh Circuit on the basis of a possession of a firearm charge as the predicate offense) to apply to the district court for resentencing under 1B1.10, his application would be denied. This result is mandated by the law in Stinson's case.


Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to Ronald Henry, Assistant United States Attorney, P. O. Box 600, Jacksonville, FL 32201, by hand, and to The Solicitor General, Department of Justice, Washington, D.C., this October 7, 1992.



Assistant Federal Public Defender